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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,847	12/21/2000	James Vincent Cirolì JR.	100 BT	8119

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EXAMINER
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KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/742,847

Applicant(s)

CIROLI ET AL.

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The following application has been reviewed. Original claims 1-27 are pending. The rejection is as stated below:

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-18, 21, and 23-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Ye U.S. Patent 6,374,227.

Regarding independent claim 1, Ye discloses a system and method for optimizing the allocation of a resource comprising; load posting means enabling a shipper to post information indicative of loads on a communication network, load viewing means enabling a carrier to view said information indicative of said loads, and bid placing means enabling said carrier to place bids on said communication network for carrier-selected ones of said loads (column 4, lines 22-48 and column 6, line 55 thru column 7, line 8).

Claim 2, the load posting means further enables a plurality of shippers to place said information indicative of said loads on said communication network and said load viewing means further enables a plurality of carriers to view said information indicative of said loads (column 3, lines 32-52).

Claim 3, evaluation means enabling said shippers to evaluate said bids and place information indicative of awarded contracts for shipper selected ones of said bids on said communication network (column 4, lines 22-48).

Claim 4, confirmation means enabling said carriers to place information indicative of acceptance of carrier selected ones of said awarded contracts of said communication network (column 3, lines 32-52).

Claim 5, Ye teaches bid placing means includes means employable by carriers, for placing time limits on said bids (column 6, lines 55 thru column 7, line 8).

Claim 6, Ye teaches a system allowing carriers to bid on load transportation routes from one geographic location to another, thus providing a means for carriers to find back hauls (column 3, line 15-31).

Claim 7, the load posting means includes means for posting carrier requirements for said loads (column 3, lines 32-52).

Claim 8, the load viewing means includes means for searching said information indicative of said loads according to predetermined criteria (column 3, lines 32-52 and column 4, lines 23-48).

Claim 9, the predetermined criteria include one or more location criteria for at least one of source and destination of said loads (column 3, lines 15-31).

Claim 10, one or more location criteria include at least one of city, state, and zip (column 3, lines 15-31).

Claim 11, one or more location criteria include radius information from at least one of city, state, and zip code (column 3, lines 15-52).

Claim 12, the predetermined criteria include the type of material or goods to be carried (column 3, lines 15-52).

Claim 13, the predetermined criteria include the type of carriage means required for said loads (column 3, lines 15-52).

Claim 14, the information indicative of loads includes information that a one of said loads is a partial load (column 4, lines 23-48).

Claim 15, the communication network is the Internet (column 6, line 55 thru column 7, line 8).

Claim 16 and 17, the information indicative of loads is place on said Internet in a markup language and extensible markup language (column 3, lines 53-64).

Claim 18, the load posting means and said bid placing means include business-to-business integration as options (column 4, lines 23-48 and column 2, line 60 thru column 3, line 14).

Claim 21, the information indicative of one or more of said loads includes information indicative of required delivery times of said one or more of said loads (column 3, lines 15-52).

Claim 23, means for said shippers to send notification, via said communication network, to a preferred set of carriers to look at specific ones of said posted loads (column 3, lines 32-52 and column 4, lines 23-48).

Regarding independent claim 24, Ye discloses a system and method for optimizing the allocation of a resource comprising; enabling a shipper to post information indicative of loads on a communication network, enabling a carrier to view said information indicative of said loads,

and enabling said carrier to place bids on said communication network for carrier-selected ones of said loads (column 4, lines 22-48 and column 6, line 55 thru column 7, line 8).

Claim 25, evaluation means enabling said shippers to evaluate said bids and place information indicative of awarded contracts for shipper selected ones of said bids on said communication network (column 4, lines 22-48).

Claim 26, confirmation means enabling said carriers to place information indicative of acceptance of carrier selected ones of said awarded contracts of said communication network (column 3, lines 32-52).

Regarding independent claim 27, Ye teaches a system and method for optimizing the allocation of a resource comprising; load posting means enabling a shipper to post information indicative of loads on a communication network, said information indicative of loads including type of load, type of carriage means required, required delivery time and date, city, state, and zip code of point of origin of load, city, state, and zip code of destination of load and shipper requirements for said loads; load viewing means enabling a carrier to view said information indicative of said loads, said load viewing means including search means enabling said carriers to search for type of load, type of carriage means required, required delivery time and date, city, state, and zip code of point of origin of load, city, state, and zip code of destination of loads as well as means for selecting back hauls; and bid placing means enabling said carrier to place bids on said communication network for carrier-selected ones of said loads including means for

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placing time limits; evaluation means enabling said shippers to evaluate bids and place information indicative of awarded contracts for shipper selected ones of said bids on said communication network; and confirmation means enabling said carriers to place information indicative of acceptance of carrier selected ones of said awarded contracts on said communication network (column 3, lines 15-52, column 4, lines 22-48 and column 6, line 55 thru column 7, line 8).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.



7. Claims 19-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ye U.S. Patent 6,374,227.

Claims 19-20, Ye teaches that information regarding loads consists of any information pertinent for selection of carriers (column 3, lines 32-52). Ye fails to specify information indicative of one or groups of carriers, and load viewing means restricts viewing of one or more loads to the specific carrier or groups of carriers. Official Notice is taken that restricting requirements are old and well known in the art. Therefore it would have been obvious at the time of the Applicants' invention to modify the teachings of Ye, to include information indicative of one or groups of carriers, and load viewing means restricts viewing of one or more loads to the specific carrier or groups of carriers because it provides a shipper desired restriction for the transportation of resources.

Claim 22, Ye teaches shippers use optimizers to negotiate the bids placed between carriers and shippers. The optimizer is a strategic decision support tool used by the shippers (column 3, line 65 thru column 4, line 21). Ye fails to specify that the optimizer may be controlled by a third party entity such as a logistics company or freight broker. Official Notice is taken that third party involvement in an auction network system is old and well known in the art. Therefore it would have been obvious at the time of the Applicants' invention that the teachings of Ye could have been modified to include allowing the optimizer to be run by a third party entity such as a logistics company or freight broker because third parties are often connected to a network and provide unbiased support to financial transactions.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Chou et al., US Patent 6,035,289 Mar. 7, 2000. Method and apparatus for electronic trading of carrier cargo capacity.

b) Barni et al., US Patent 6,064,981 May 16, 2000. Method for online display and negotiation of cargo rates.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Respectfully Submitted  
Stefano Karmis  
December 19, 2003

  
**HANI M. KAZIMI**  
**PRIMARY EXAMINER**